

**Notice of Allowability**

Application No.

09/911,537

Applicant(s)

KITO, EIJI

Examiner

Shaima Q. Aminzay

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to August 19, 2005.
2. ☒ The allowed claim(s) is/are 1-7, 9 and 10.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)           |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|   | 9. <input type="checkbox"/> Other _____   |

## ***DETAILED ACTION***

### ***Allowable Subject Matter***

1. Claims 1-7, and 9-10 are allowed.

### ***Reasons for Allowance***

2. The following is an examiner's statement of reason for allowance:

The applicant filed amendment on August 19, 2005 in response to the final office action mailed May 19, 2005, adding the allowable subject matter of claim 8 to independent claim 7, canceling the dependent claims 8 and 11, puts the application in conditions for allowance. The independent claim 1 and dependent claims 2-6 were allowed, and the allowability of dependent claims 9-10 were acknowledged in the previous office action.

The prior art specifically Tiedemann (Tiedemann Jr. et al. U. S. Patent 5,914,950) and Bishop (Bishop et al. U. S. Patent 6,850,512) are failed to render obviousness in combination or individually and failed to anticipate individually the following underlined limitations:

“A communication system, which comprises: data acquisition requesting means located in a radio interface for requesting, through said radio interface wherein a sum of transmission power in a cell is limited when communications are simultaneously carried out, data acquisition from a data source located in a network interface; data buffering means located in said network interface for temporarily storing the data requested by said data acquisition requesting means; data transmitting means located in said network interface for successively reading out said data stored in said data buffering means and for transmitting said data to said data acquisition requesting means; and data transfer rate control means located in said network interface for increasing a data transfer rate in said radio interface within the limited electric power of transmission, when said data stored in said data buffering means exceed a prescribed threshold” as disclosed in claim 1.

“A communication system, comprising: a base station that is connected via network connection to a content server; mobile stations that are connected to said base station via respective radio connections; and said base station comprising a data buffer that stores data transmitted from the content server to said base station via said network connection, and a transfer rate setting section that sets data transfer rate from said data buffer to one of said mobile stations via respective one of said radio connections based on an amount of data in said data buffer, wherein said transfer rate setting section monitors total of power

transmitting from said base station to all said mobile stations, and wherein when the total of power is less than a maximum transmitting power for said base station and when the amount of data in said data buffer exceeds a threshold, said data transfer rate setting section increases the transfer rate from said data buffer to the one of said mobile stations” as disclosed in claim 7.

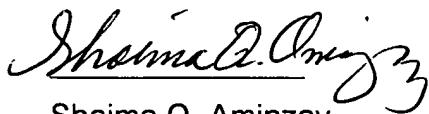
For these reasons, independent claims 1, and 7 are allowed. Claims 2-6 are dependent on the independent claim 1, and claims 9-10 are dependent on the independent claim 7 are allowed under the same reasons set forth in claims 1 and 7.

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance”.

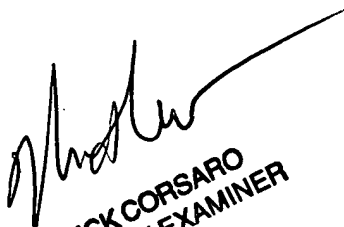
### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shaima Q. Aminzay whose telephone number is 571-276-7874. The examiner can normally be reached on 7:00 AM -5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 571-272-7882. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Shaima Q. Aminzay  
(Examiner)



NICK CORSARO  
PRIMARY EXAMINER

Nay A. Maung  
(SPE)

September 31, 2005

Art Unit 2684